

REMARKS

Claims 28-36, 40 and 41 are rejected under 35 U.S.C. §102(e) as anticipated by Faisant et al. (U.S. 2002/0051749). The applicants, Benoit and Menei, are co-applicants in the Faisant '749 published application. Likewise, co-applicants Benoit and Menei are also named co-inventors and co-applicants in U.S. 2003/0175356 to Faisant et al, which the Examiner asserts has equal relevance to the instant claims as Faisant '749.

Applicants submit herewith a Declaration Under 37 C.F.R. §1.132 wherein all the co-applicants of both Faisant '749 and Faisant '356 attest to the fact that, insofar as the claimed subject matter of the instant application is disclosed in either of those cited references, such subject matter was conceived or invented exclusively by Benoit and Menei.

In view of the 132 Declaration submitted herewith, applicants respectfully submit that they have overcome the §102(e) rejection in view of Faisant '749 and Faisant '356. Applicants respectfully request reconsideration and withdrawal of that rejection.

Claims 28-40 stand provisionally rejected under 35 U.S.C. §101 as claiming the same invention as that of claims 1-15 of co-pending application No. 10/451,216, now published as 2004/0180095. The Official Action notes that this is a provisional double-patenting rejection since the conflicting claims have not in fact been patented. Insofar as the conflicting claims have not yet been patented, applicants would defer the resolution of this issue until such time as allowable subject matter has been identified. At that time, applicants will cancel the conflicting claims in the co-pending application No. 10/451,216.

Applicants respectfully submit that in view of the foregoing remarks, the pending claims are in condition for allowance. If, however, the examiner perceives any impediments to a formal notification of allowance, whether they be formal or substantive, applicants respectfully request the examiner to call applicants' attorney at the number provided below. Such informal communication will expedite examination and disposition of the instant case.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

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By: 

Brian P. O'Shaughnessy
Registration No. 32,747

P.O. Box 1404
Alexandria, Virginia 22313-1404
(703) 836-6620